

NATIONAL RAILWAY EQUIPMENT CO.



HOME OFFICE 14400 S ROBESY STREET P O BOX 2270 · DIXMOOR, ILLINOIS 60426
TELEPHONE (708) 388-6002 · FAX (708) 388-2487



October 23, 2007

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

RECORDATION NO. 27213 FILED

OCT 23 2007

4-32 PM

SURFACE TRANSPORTATION BOARD

Attn: Equipment Recordation

To Whom It May Concern:

I have enclosed for recordation, pursuant to the provisions of 49 U.S.C. 11301, an original and one counterpart of the memorandum of lease agreement and a schedule of equipment for a locomotive lease agreement dated September 14, 2007, a primary document under the Board's recordation regulations.

The names and addresses of the parties to the enclosed document are as follows:

Lessor: National Railway Equipment Co.
14400 S. Robey St.
Dixmoor, IL 60426

Lessee: Formosa Plastics Corporation, Texas
201 Formosa Drive
Point Comfort, Texas 77978

A description of the equipment covered by the Lease Agreement is as follows:

Five (5) SD20 EMD Six Axle Locomotives, bearing road #'s NREX 2030, NREX 2033, NREX 2040, NREX 2034, NREX 2041.

A short summary of the document to appear in the index is as follows:

"Locomotive Lease Agreement"


Also enclosed is a check in the amount of \$35 payable to the Surface Transportation Board to cover the required recordation fee for the attached agreement.

Please date-stamp and return an original copy after recordation to:

Kristina Buchthal
National Railway Equipment Co.
14400 South Robey Street
P.O. Box 2270
Dixmoor, IL 60426

Sincerely Yours,

NATIONAL RAILWAY EQUIPMENT CO.

By: 
Kristina Buchthal

OCT 26 '07

4-32 PM

LOCOMOTIVE LEASE AGREEMENT**SURFACE TRANSPORTATION BOARD**

THIS LOCOMOTIVE LEASE AGREEMENT ("Lease"), entered into as of this 14th day of September 2007, between the National Railway Equipment Co., an Illinois corporation, ("LESSOR"), and Formosa Plastics Corporation, Texas, ("LESSEE").

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. LEASE AND LEASED PROPERTY

Lessee hereby leases from Lessor, the locomotives, ("locomotives" and/or "locomotive"), together with the parts, accessories, attachments and devices, if any, now or hereafter affixed thereto, as described in Schedule "A" attached to and made part hereof.

2. TERM

The term of this Lease for each locomotive shall be the fixed term set forth in Schedule "A", commencing on the date such locomotive is accepted by Lessee ("Commencement Date"). In the event of default of the lease, Lessee shall affect prompt delivery of the locomotives to Lessor at its Silvis, Illinois manufacturing facility.

3. RENTAL

A. The rental payable shall be the sum identified in Schedule "A" payable in advance monthly installments, with one month of advance rent payable upon purchase order receipt date and, in addition, one month of rent payable upon purchase order receipt date to be held as a security deposit. If the Commencement Date for any locomotive does not fall on the first day of the month, the first rental payment shall be prorated accordingly.

B. Payments past due for more than five (5) days shall bear interest at the rate of twelve percent (12%) per annum.

C. All rentals shall be paid to Lessor at:

National Railway Equipment Co.
1473 Paysphere Circle
Chicago, IL 60674

or at such other address as Lessor may direct in writing.

4. TAXES

Lessee shall pay all use, excise, ad valorem, stamp, documentary and similar taxes on or relating to this lease of the locomotive, or the use, registration, rental, maintenance, possession or operation thereof, and shall file any returns required therefor, and shall hold Lessor harmless against any liability and expense (including attorney fees and costs) on account of Lessee's failure to do the same.

5. OWNERSHIP AND LESSOR'S INSPECTION

- A. The locomotives shall at all times remain the sole and exclusive property of the Lessor.
- B. Upon reasonable notice to Lessee, Lessor or its agents shall have free access to the locomotives at reasonable times for the purpose of inspections.
- C. No accessions, additions, alterations or improvements to the locomotives of any nature shall be made without Lessor's consent, but if any are made, they immediately shall become part of the locomotive and shall become Lessor's property.
- D. Lessee shall keep the locomotives, at all times, free and clear from all claims, liens and encumbrances.
- E. Lessee shall operate such locomotives in service on its railroad.
- F. This Lease is intended to be a true lease of the locomotives and shall not be construed as creating a sale of the locomotives to Lessee.

6. DELIVERY/RETURN

Lessee shall accept delivery of the locomotives at Lessor's manufacturing facilities in Dixmoor, Illinois; Mt. Vernon, Illinois; and Silvis, Illinois. In the event of default, as set forth in Articles 11 and 12, and/or at the termination of the lease, Lessee shall return such locomotives to one of Lessor's remanufacturing facilities in the domestic United States or to one of Lessor's domestic end-users, as directed by Lessor, in good order and condition, reasonable wear and tear excepted. Lessee shall bear freight return costs. Lessee shall pay or reimburse Lessor for any reasonable and ordinary expenses incurred by Lessor in returning the locomotives to good order and condition, in delivering the locomotives to Lessor or effecting return of the locomotives from Lessee as provided herein.

7. LESSEE'S INSPECTION/WARRANTY DISCLAIMER

- A.
 - i. Lessee hereby acknowledges that Lessee has had or will have the opportunity to inspect the locomotives prior to accepting delivery of same, and that acceptance of delivery of the locomotive by Lessee constitutes acknowledgment that they have been received in good condition and repair.
 - ii. Lessor shall be responsible for the maintenance of the locomotives during the term of this Lease. A suitable maintenance facility and upkeep of same shall be provided by the Lessee at no charge to the Lessor. Maintenance will include the cost of material and labor associated with the replacement of electrical and mechanical assemblies and normalized consumables. Lessee shall, however, be responsible for daily inspections, the material and labor of all water, diesel fuel and sand. Locomotive equipment upgrades [other than those specifically identified in the equipment specifications inclusive of the N-FORCE anti-wheel slip system and the N-LIMIT idle limiting system (AESS) for normal service application locomotives] as requested by the Lessee or as

required by local, state, federal or other jurisdictions will be the responsibility of the Lessee. End-user misuse, abuse, negligence, theft, vandalism, wreck damage and acts of God will be to the account of the Lessee. Associated freight charges for the delivery of all replacement parts from Lessor and the return of all assembly/component part cores to Lessor shall be borne by Lessor. The Lessor point of contact for maintenance shall be National Railway Equipment Co.-St. Louis, Missouri: attention Mr. John Kincaid at 618.214.4163 and National Railway Equipment Co.-San Antonio, Texas: attention Mr. Gerald Cochran at 210.494.8863 or 210.410.7509.

B. Delivery to and acceptance of the locomotives by, and execution of a Schedule with respect thereto by Lessee shall constitute Lessee's acknowledgment that the locomotives are of the manufacture, design and utility, quality and capacity selected by the Lessee, that Lessee is satisfied that the same is suitable for Lessee's purpose and that, **LESSOR MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE LOCOMOTIVES, LESSOR HAS NO LIABILITY FOR SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES**, and Lessor hereby disclaims all such representation and warranties. Rental charges and all other obligations of Lessee shall commence only after Lessee's receipt of the locomotives at Lessee's site.

8. USE AND MAINTENANCE

Lessee agrees that:

A. Lessee shall be responsible and pay for all registrations, certificates, and permits, and all other similar requirements of governmental authorities, whether required to be obtained in the name of the Lessor or Lessee.

B. The locomotives shall be used and operated only by properly qualified and trained personnel authorized by Lessee.

C. Lessee shall comply with all federal, state, municipal and local laws, ordinances, and rules, and regulations relating to the lease, possession, insuring, use and operation of the locomotives.

D. Lessee shall be solely responsible for the payment of any and all fines, penalties or forfeitures (including without limitation the confiscation of the locomotives) levied upon or arising out of the use, operation, maintenance or insuring of the locomotives in violation of any law, ordinance, rule or regulation of any governmental authority.

E. Except to the extent otherwise identified herein, Lessee shall pay all costs, expenses and charges incurred in connection with the use and operation of the locomotives.

F. Lessor shall maintain the locomotives in good mechanical condition and running order (full compliance with all FRA requirements) and in compliance with OEM specifications and safety rules and regulations as currently promulgated by applicable governmental authorities. Changes to FRA requirements and/or changes mandated by applicable government authorities during the term of the lease shall be the responsibility of the Lessee.

of condemnation or seizure of a Locomotive, Lessee shall (at Lessee's option provided Lessee is not then in default under the Lease) (i) replace such locomotive with substantially similar equipment of equal or greater value and in good repair and transfer title thereto to Lessor free and clear of any all liens, claims and encumbrances of any kind or nature whatsoever, or (ii) pay Lessor in cash the sum of (a) any installments of rent and other amounts payable by Lessee hereunder with respect to such item due but unpaid at the date of such payment plus (b) the Replacement Value of such Locomotive determined in accordance with Schedule A. Upon payment of such amount to Lessor, such item shall become the property of Lessee, Lessor will transfer to Lessee, without recourse or warranty, all of Lessor's right, title and interest therein, the rent with respect to such item shall terminate, and the basic rental payments on the remaining items shall be reduced accordingly. Lessee shall pay any sales and use taxes due on such transfer. Lessor shall within ninety days provide a similar replacement Locomotive and rent shall start with respect to such Locomotive and be prorated for the days remaining in the month the Locomotive is delivered Ex Works NREC, provided that this clause shall not apply to the subleased Locomotive.

E. If Lessee shall fail to obtain or maintain the insurance coverage or provide evidence of self-insured status required in this lease, or shall fail to furnish Lessor with evidence thereof, Lessor at its option, may obtain such required insurance coverage on behalf of Lessee and Lessee's expense.

10. ASSIGNMENT. THIS LEASE HAS BEEN COLLATERALLY ASSIGNED BY LESSOR TO LASALLE BANK NATIONAL ASSOCIATION (the "Bank"). Lessee expressly agrees that Lessor shall remain liable under this Lease to perform all of the conditions and obligations provided herein to be observed and performed by it, and neither the collateral assignment of this Lease to Bank by Lessor nor any action taken pursuant to such assignment shall cause Bank to be under any obligation or liability in any respect to any party to this Lease, including, without limitation, Lessee, for the performance or observance of any of the representations, warranties, conditions, covenants, agreements or other terms of this Lease. Notwithstanding any provision to the contrary herein, this Lease may not be amended or modified without the prior written consent of Bank. Lessee will not sell, assign, sublet or otherwise encumber or permit a lien arising through Lessee to exist on or against any interest in this Lease or the Locomotives.

11. DEFAULT

A. Lessee shall be in default under this Lease upon the happening of any of the following events or conditions ("Event of Default"):

- i. Default in the payment when due of any installment of rental hereunder or of any other obligation for the payment of money now or hereafter owed by Lessee to Lessor.
- ii. Default in the timely performance of any other liability, obligation, covenant or agreement hereunder of Lessee.

12. REMEDIES UPON DEFAULT

A. Upon the occurrence of any Event of Default or at any time hereafter, Lessor, in its sole discretion, may take any one or more of the following actions with respect to the locomotives:

- i. Declare all unpaid amounts of rental to be immediately due and payable.
- ii. Terminate the lease of any or all locomotives by written notice to Lessee.

- iii. Whether or not the lease is terminated, take possession of any or all locomotives wherever found, and for this purpose Lessor may at Lessor's option enter upon the premises where such locomotives are located and take immediate possession of and remove the same, all without liability to Lessee for damage to property or otherwise.
- iv. Require that Lessee shall, upon written demand by Lessor and at Lessee's expense, promptly make available to Lessor at Lessee's expense, any or all Equipment at places designated by Lessor, which is reasonably convenient to both parties.
- v. Use, hold, sell, lease or otherwise dispose of any or all such locomotives as Lessor in its sole discretion may decide, without affecting the obligations of Lessee as provided in this Lease.
- vi. Sell or lease any or all locomotives, at public or private sales or proceedings, at such time or times and upon such terms as Lessor may determine, free and clear of any rights of Lessee and, if notice thereof is required by applicable law, any notice in writing of any such sale or Lease by Lessor to Lessee not less than five (5) days prior to the date thereof shall constitute reasonable notice to Lessee.
- vii. Proceed by appropriate action either at law or in equity to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof or to rescind the lease hereunder of any or all locomotives.
- viii. Exercise any and all rights and remedies available to Lessor under any applicable law. In addition, Lessee shall be charged with and shall pay to Lessor all reasonable costs and expenses of Lessor incurred as a result of each Event of Default by Lessee.

B. None of the rights and remedies under or referred to in this paragraph 12 is intended to be exclusive, but each such right or remedy shall as to each locomotive be cumulative and may be availed of separately or concurrently with or in addition to any other right or remedy provided or referred to herein or otherwise available to Lessor at law or in equity. Any repossession or subsequent sale or lease by Lessor of any locomotives shall not bar an action against lessee for a deficiency. To the extent permitted by applicable law, LESSEE WAIVES ANY AND ALL RIGHTS TO NOTICE AND TO A JUDICIAL HEARING WITH RESPECT TO THE REPOSSESSION OF EQUIPMENT BY LESSOR AS A RESULT OF ANY EVENT OF DEFAULT HEREUNDER BY LESSEE.

C. Without limitation of any rights of Lessor otherwise existing or otherwise available to Lessor, it is expressly covenanted and agreed by the parties hereto that in the event of any assignment by operation of law of this Lease or of any lease hereunder, or of a bankruptcy of Lessee within the meaning of the Federal Bankruptcy Act, then Lessor may, at Lessor's election, terminate this Lease or any one or more leases hereunder.

13. RECORDATION OF LESSOR'S INTEREST

Lessee agrees to execute all recording documents requested by Lessor to show Lessor's interest in the locomotives. Lessee further authorizes Lessor to execute and file financial statements or other documents evidencing Lessor's interest in the locomotives without Lessee's signature.

14. MISCELLANEOUS

A. This Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Illinois.

B. Neither this Lease nor any schedule shall be amended, and no provision hereof or of any Schedule shall be waived or varied unless by a writing signed by the parties.

C. No delay or omission by Lessor in exercising any right hereunder shall operate as a waiver of such right or any other right. A waiver by Lessor of any Event of Default by Lessee shall not be construed as a waiver of any future occasion.

D. In case any provision (or portions thereof) in this Lease shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions (or portions thereof) hereby shall not in any way be affected or impaired thereby.

E. This Lease shall be binding upon and inure to the benefit of Lessor and Lessee and their respective successors.

F. All notices permitted or required to be given pursuant to this Lease shall be mailed by Certified or Registered Mail, Return Receipt Requested to the parties at the following addresses or at such other addresses as each party may notify the other.

If to Lessor: National Railway Equipment Co.
P.O. Box 2270
Dixmoor, Illinois 61282

If to Lessee: Formosa Plastics Corporation, Texas
Contracting Department
201 Formosa Drive
Point Comfort, Texas 77978

G. Lessor and any subcontractor utilized by Lessor agree to abide by all of Lessee's requirements for access to Lessee's properties.

WITNESS WHEREOF, the parties have executed this Lease the day and year first mentioned above.

LESSOR:

NATIONAL RAILWAY EQUIPMENT CO.

BY: 

NAME: James M. Wurtz, Jr.

TITLE: Vice President

ATTEST: Robert E. Loewer, Jr.

BY: 

TITLE: Director of Finance

(Corporate Seal)

LESSEE:

FORMOSA PLASTICS CORPORATION, TEXAS

BY: 

NAME: R. P. Smith

TITLE: Vice President/General Manager

ATTEST: John S. Hersey

BY: 

TITLE: Contracting Manager

SCHEDULE "A" Page 1 of 3
NORMAL SERVICE APPLICATION LOCOMOTIVES

Attached to and incorporated into the Lease dated this 14th day of September 2007 by and between the National Railway Equipment Co. (LESSOR) and Formosa Plastics Corporation, Texas (LESSEE).

Type and General Description of Locomotive Unit, Marks and Numbers:

UNIT NO.	TYPE	GENERAL DESCRIPTION
NREX 2030	SD20	EMD Six Axle 2,000 Horsepower
NREX 2033	SD20	EMD Six Axle 2,000 Horsepower
NREX 2040	SD20	EMD Six Axle 2,000 Horsepower

LEASE RATE

**LEASE
TERM**

84 Months
84 Months
84 Months

COMMENCEMENT DATE: November 30, 2007

Lessee agrees to pay in advance monthly installments, with one month of advance rent payable upon purchase order receipt date and, in addition, one month of rent payable upon purchase order receipt date to be held as a security deposit on a per locomotive basis.

SCHEDULE "A" Page 2 of 3
BACK-UP SERVICE APPLICATION LOCOMOTIVES

Attached to and incorporated into the Lease dated the 14th day of September 2007 by and between the National Railway Equipment Co. (LESSOR) and Formosa Plastics Corporation, Texas (LESSEE).

Type and General Description of Locomotive Unit, Marks and Numbers:

UNIT NO.	TYPE	GENERAL DESCRIPTION
NREX 2034	SD20	EMD Six Axle 2,000 Horsepower
NREX 2041	SD20	EMD Six Axle 2,000 Horsepower

LEASE RATE

LEASE TERM	
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84 Months

84 Months

COMMENCEMENT DATE: November 30, 2007

Lessee agrees to pay in advance monthly installments, with one month of advance rent payable upon purchase order receipt date and, in addition, one month of rent payable upon purchase order receipt date to be held as a security deposit on a per locomotive basis.

LESSOR: NATIONAL RAILWAY EQUIPMENT CO.

BY: 

NAME: James M. Wurtz, Jr.

TITLE: Vice President

LESSEE: FORMOSA PLASTICS CORPORATION, TEXAS

BY: 

NAME: R. P. Smith

TITLE: Vice President/General Manager

MEMORANDUM OF LEASE AGREEMENT

THIS MEMORANDUM OF LEASE AGREEMENT is made and entered into as of September 14, 2007, by and between NATIONAL RAILWAY EQUIPMENT CO. ("Lessor"), and FORMOSA PLASTICS CORPORATION, TEXAS ("Lessee"), with reference to the following:

1. Lessor has agreed to lease to Lessee, and Lessee has agreed to lease from Lessor, Locomotive model(s) described herein.

Each locomotive is fully-described in a certain Lease Agreement dated as of September 14, 2007 (together with all of the riders, schedules and other attachments thereto, collectively, the "Lease"), each between Lessor and Lessee. A Schedule of the equipment is attached hereto.

2. The Lease shall be effective as of the date hereof and shall be subject to the term specified in the Lease, and any extension of such term to the extent provided for in the Lease.

The Memorandum of Lease Agreement may be executed in any number of counterparts, each executed counterpart constituting an original but all together only one Memorandum of Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Memorandum of Lease Agreement to be executed as of the date first above written.

LESSEE:

FORMOSA PLASTICS CORPORATION, TEXAS

By: 

Name: R. P. Smith

Title: Vice President/General Manager

LESSOR:

NATIONAL RAILWAY EQUIPMENT CO.

By: 

Name: James M. Wurtz, Jr.

Title: Vice President

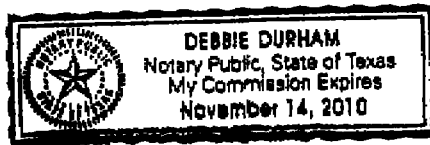
STATE OF Texas)
COUNTY OF Calhoun) SS.

On this 24th day of September, 2007, before me appeared R.P. Smith, the person who signed this instrument who acknowledged that (s) he is the V.P./Gen. Mgr. of Formosa Plastics Corporation, Texas and that, being duly authorized, (s) he signed such instrument as a free act on behalf of said corporation.

Debbie Durham

Notary Public

[Seal]



My Commission Expires:

Nov. 14, 2010

STATE OF ILLINOIS)
COUNTY OF COOK) SS.

On this 1 day of October, 2007, before me appeared James M. Wicks Jr. the person who signed this instrument who acknowledged that (s) he is an officer of **NATIONAL RAILWAY EQUIPMENT CO.** and that, being duly authorized, (s) he signed such instrument as a free act on behalf of said corporation.

Robert E. Loewer Jr.
Notary Public

[Seal]



My Commission Expires:

SCHEDULE OF EQUIPMENT

Lessor: NATIONAL RAILWAY EQUIPMENT CO.

Lessee: FORMOSA PLASTICS CORPORATION, TEXAS

Equipment Schedule No.: See Schedule "A"

Manufacturer and/or Vendor
Name & Invoice Number

Equipment
Description

National Railway Equipment Co.

SD-20 EMD Six axle 2,000 HP Locomotives